

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LOS REYES FIREWOOD and
PAUL KEITH REYES,

Plaintiffs,

v.

No. 14cv303 KG/SCY

STATE OF NEW MEXICO'S
BERNALILLO COUNTY METROPOLITAN
DETENTION CENTER and
JAIL DIRECTOR CHIEF RAMON RUSTIN,

Defendants.

**ORDER DENYING MOTION FOR LEAVE TO PROCEED ON APPEAL
WITHOUT PREPAYMENT OF COSTS OR FEES**

THIS MATTER comes before the Court on Plaintiff's Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees. (Doc. 31, filed June 24, 2014). The Court concludes that Plaintiff's appeal is not taken in good faith and will **DENY** the motion.

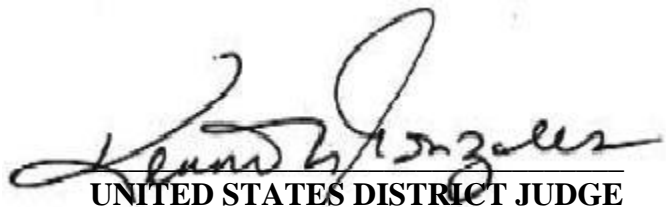
"In order to succeed on [a motion for leave to proceed on appeal without prepayment of costs or fees], an appellant must show a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). "A suit 'is frivolous where it lacks an arguable basis either in law or fact' or is 'based on an indisputably meritless legal theory.'" *Banks v. Vio Software*, 275 Fed.Appx. 800, 801 (10th Cir. 2008) (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)).

The Court dismissed Plaintiff's Amended Complaint without prejudice because the Amended Complaint "does not contain short and plain statements of the claims showing that Plaintiffs are entitled to relief nor do the factual allegations state a claim to relief that is plausible

on its face.” (Doc. 22). Plaintiff’s Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees states that his issue on appeal is “Tax fraud as a result of an association-in-fact RICO enterprise.” (Doc. 31 at 5). Plaintiff makes conclusory allegations regarding “money laundering using illegal proceeds to promote illegal activity” and the State of New Mexico “continuing to participate in a simple conspiracy to keep arresting [Plaintiffs]” but does not offer any facts to support those allegations. (Doc. 31 at 7-8) His motion does not set forth any argument of error regarding the Court’s dismissal of his case.

The Court concludes that Plaintiff’s appeal is not taken in good faith and that his motion for leave to proceed IFP must be denied because he has not identified “the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.” *DeBardeleben*, 937 F.2d at 505.

IT IS ORDERED that Plaintiff’s Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (Doc. 7, filed June 9, 2014) is **DENIED**.



UNITED STATES DISTRICT JUDGE